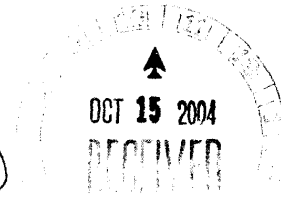


212276



113 471 (Sub No 4X)

October 12, 2004

Mr. Vernon Williams, Secretary
Surface Transportation Board
1925 K Street, NW, Suite 750
Washington, DC 20423

Mr. Williams,

The attached Joint Notice of Transfer of Responsibility and Request for Replacement NITU, and Statement of Willingness to Assume Financial Responsibility is being submitted from Land Legacy, Inc. Please make note of our corrected mailing address.

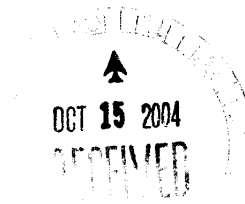
Land Legacy, Inc.
502 South Main
Suite 401
Tulsa, OK 74103

All correspondence directed to Land Legacy should be sent to the above address. Should any representative from the Surface Transportation Board need to contact Legacy Land, they can also reach us at telephone number: (918) 587-2190 or email at: msontag@landlegacy.com

Sincerely,


Mark Sontag
Project Director

ENTERED
Office of Proceedings
OCT 20 2004
Part of
Public Record



September 27, 2004

Mr. Vernon Williams, Secretary
Surface Transportation Board
1925 K Street, NW, Suite 750
Washington, DC 20423

Re: **JOINT NOTICE OF TRANSFER OF RESPONSIBILITY AND REQUEST
FOR REPLACEMENT NITU** – Docket No. AB-471 (Sub. No. 4X), South
Kansas & Oklahoma Railroad Company – Abandonment Exemption – Crawford,
Elk and Greenwood Counties, KS, and Osage and Tulsa Counties, OK.

Dear Mr. Secretary:

The South Kansas & Oklahoma Railroad Company (SK&O) filed a notice of exemption under 49 CFR 1152 Subpart F – Exempt Abandonment's, to abandon, among other lines, a 35-mile railroad line between milepost 153.0, near Tulsa, and milepost 188.0, near Barnsdall, in Tulsa and Osage Counties, Oklahoma.

On November 22, 2000, the Trust for Public Land (TPL) filed a request for a Notice of Interim Trail Use (NITU) and for a public use condition regarding the 35-mile portion of the right-of-way between milepost 153.0 and milepost 188.0 in Tulsa and Osage Counties, to permit TPL to negotiate an agreement with the SK&O. The SK&O responded to TPL's request on November 27, 2000, indicating that it had not consummated abandonment of the line, and that the SK&O was willing to negotiate for trail use with TPL.

On November 29, 2000, the Surface Transportation Board (STB) found that the SK&O had not abandoned the line, and that TPL's request complied with the requirements of 49 CFR 1152.29. The STB imposed a public use condition, and issued a NITU for a period of 180 days, until May 29, 2001.

On March 15, 2001, the TPL and the SK&O consummated a trail use/rail banking agreement with regard to the portion of the line within the city limits of the City of Tulsa, Tulsa County, between milepost 153.0 and 157.10. Also on March 15, 2001, TPL entered into an agreement with the City of Tulsa with regard to that portion of the line. TPL and the City of Tulsa subsequently filed a joint notice of transfer and request to replace the NITU with regard to the line between mileposts 153.0 and 157.10, pursuant to

49 CFR § 1152.29(f). The STB granted that joint request on October 3, 2001 (decision served and effective as of October 10, 2001).

On December 27, 2001 (decision served and effective as of December 31, 2001), the STB extended the NITU as it relates to the remainder of the line, between mileposts 157.10 and 188.0, until May 24, 2002.

On March 18, 2002, the TPL and the SK&O consummated a trail use/rail banking agreement with regard to the portion of the line within Tulsa County, between milepost 157.10 and 163.21. Also on March 18, 2002, TPL and Tulsa County entered into an agreement, whereby TPL conveyed its interest in that portion of the line to Tulsa County, which will construct and maintain a scenic, recreational trail. In a joint motion, filed April 3, 2002, TPL and Tulsa County requested substitution of the County as the new interim trail user for that portion of the right-of-way. The STB granted that joint request on April 23, 2002 (service effective April 24, 2002).

On June 6, 2002 (decision served and effective as of June 11, 2002) the STB extended the NITU as it relates to the remainder of the line, between mileposts 163.21 and 188.0, until November 20, 2002.

On November 7, 2002, (decision served and effective as of November 12, 2002), the STB extended the NITU as it relates to the remainder of the line, between milepost 163.21 and milepost 188.0, until May 19, 2003.

On May 15, 2003, the TPL filed a request for a fifth 180-day extension of the NITU as it relates to the remainder of the line, between milepost 163.21, at the Tulsa/Osage County line, and the end of the line at milepost 188.0, in Osage County. The STB granted that joint request on June 26, 2003 (decision served and effective as of June 25, 2003).

On May 22, 2003, TPL and SK&O consummated a trail use/rail banking agreement with regard to the portion of the line within Osage County, between milepost 163.21 and milepost 188.0. Also on May 22, 2003, TPL and Land Legacy, Inc., an Oklahoma non-profit, public benefit corporation, entered into an agreement whereby TPL conveyed its interest in that portion of the line to Land Legacy, Inc., which will hold title and maintain the rail-trail, working cooperatively with Osage County and local entities.

On June 2, 2003, Land Legacy Inc., filed quitclaim deed with regard to remainder of line, between milepost 163.21 and milepost 188.0, with Osage County Clerk's Office.

On June 26, 2003, (decision served and effective as of June 25, 2003), the STB extended the NITU as it relates to the remainder of the line, between milepost 163.21 and milepost 188.0, until November 25, 2003.

Pursuant to 49 CFR § 1152.29(f), Land Legacy, Inc., hereby requests that the STB vacate the existing NITU and issue an appropriate replacement NITU identifying

Land Legacy, Inc., with regard to the line between mileposts 163.21 and 188.0. A statement of the Land Legacy's willingness to assume financial responsibility, organizational documents, and a copy of the filed deed is enclosed.

On Oct. 13, 2004, Land Legacy, Inc. and the **Town of Skiatook** entered into an agreement, whereby Land Legacy, Inc. conveyed its interest in that portion of the line between milepost 163.21 and 170 located in Osage County, Oklahoma to the Town of Skiatook, Osage County, which will hold title and maintain the rail.

Pursuant to 49 CFR § 1152.29(f), Land Legacy, Inc. and the Town of Skiatook hereby request that the STB vacate the existing NITU and issue an appropriate replacement NITU identifying the Town of Skiatook, with regard to the line between mileposts 163.21 and 170. A statement of the Town of Skiatook's willingness to assume financial responsibility is enclosed.

Land Legacy, Inc. will continue to assume financial responsibility as the interim trial user for the remainder of the line in Osage County, between milepost 170 and 188.0.

Respectfully submitted,

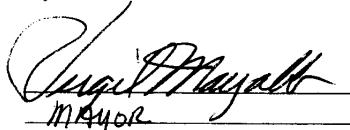
LAND LEGACY, INC.

Town of Skiatook, Oklahoma

By:

By:


Robert Gregory
Executive Director


Cheryl Mayall
Mayor

Enclosures

cc: Karl Morell, Counsel for the SK&O

STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL RESPONSIBILITY

In order to establish interim trail use and rail banking under section 8(d) of the National Trail Systems Act, 16 U.S.C. § 1247(d), and 49 CFR § 1152.29, the Town of Skiatook, a political subdivision of the State of Oklahoma, is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of, and for payment of any and all taxes that may be levied or assessed against the right-of-way previously owned and operated by the South Kansas & Oklahoma Railroad Company.

The property, known as the Osage Railroad, an approximate seven mile portion beginning at milepost 163.21, at the boundary between Tulsa County and Osage County, Oklahoma and ending at milepost 170.0 in Osage County, Oklahoma.

A map depicting the right-of-way is attached.

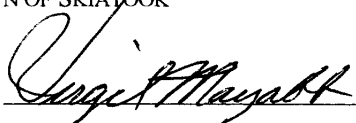
The Town of Skiatook acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and, with just compensation, subject to possible future reconstruction and reactivation of the right-of-way for rail service.

By my signature below, I certify service upon Watco, Inc. d/b/a the South Kansas & Oklahoma Railroad Co., 315 West Third Street, Pittsburgh, KS 66762, by U.S. Mail, postage pre-paid, first class, this 13th day of October 2004.

Respectfully submitted,

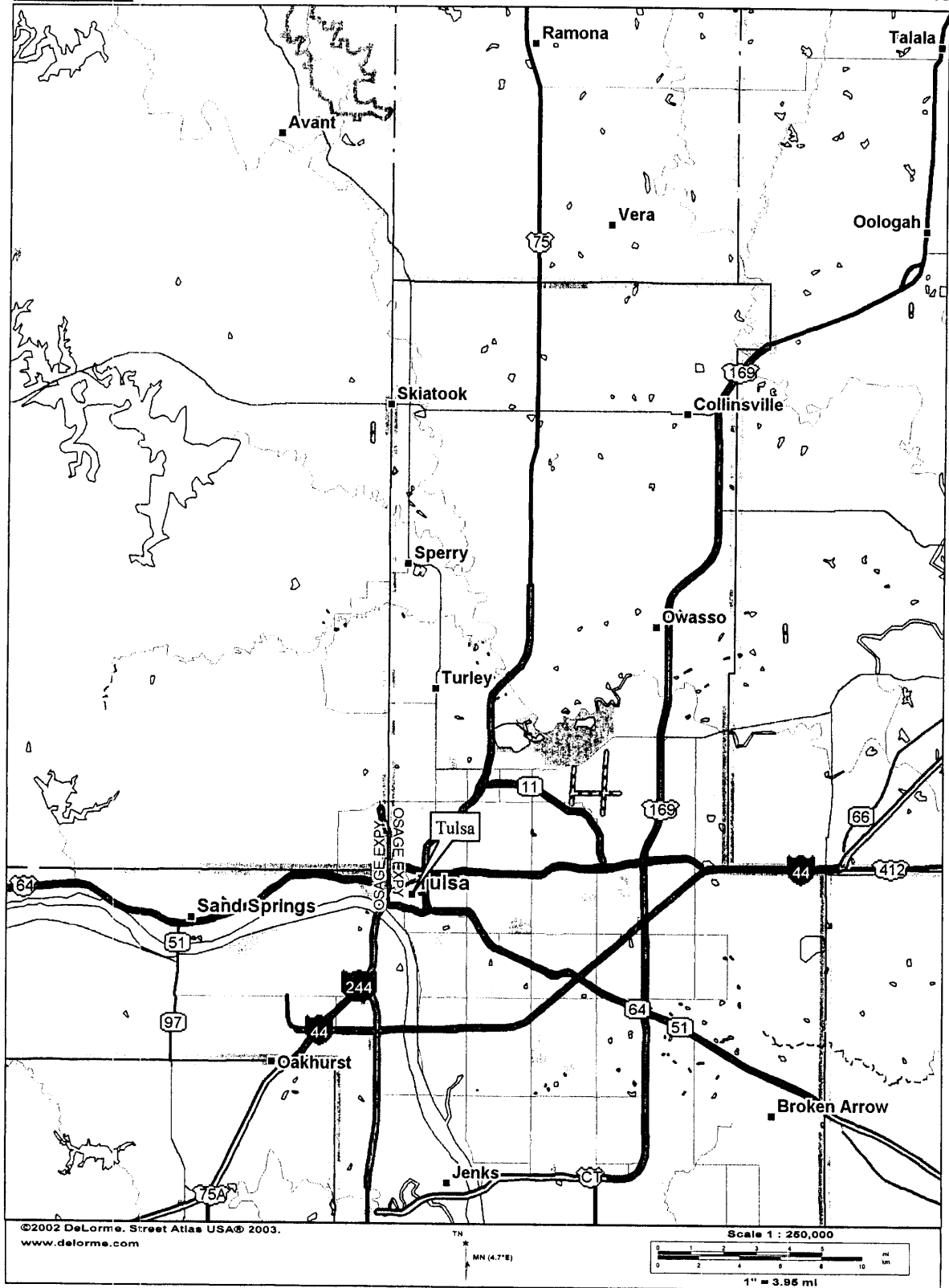
TOWN OF SKIATOOK

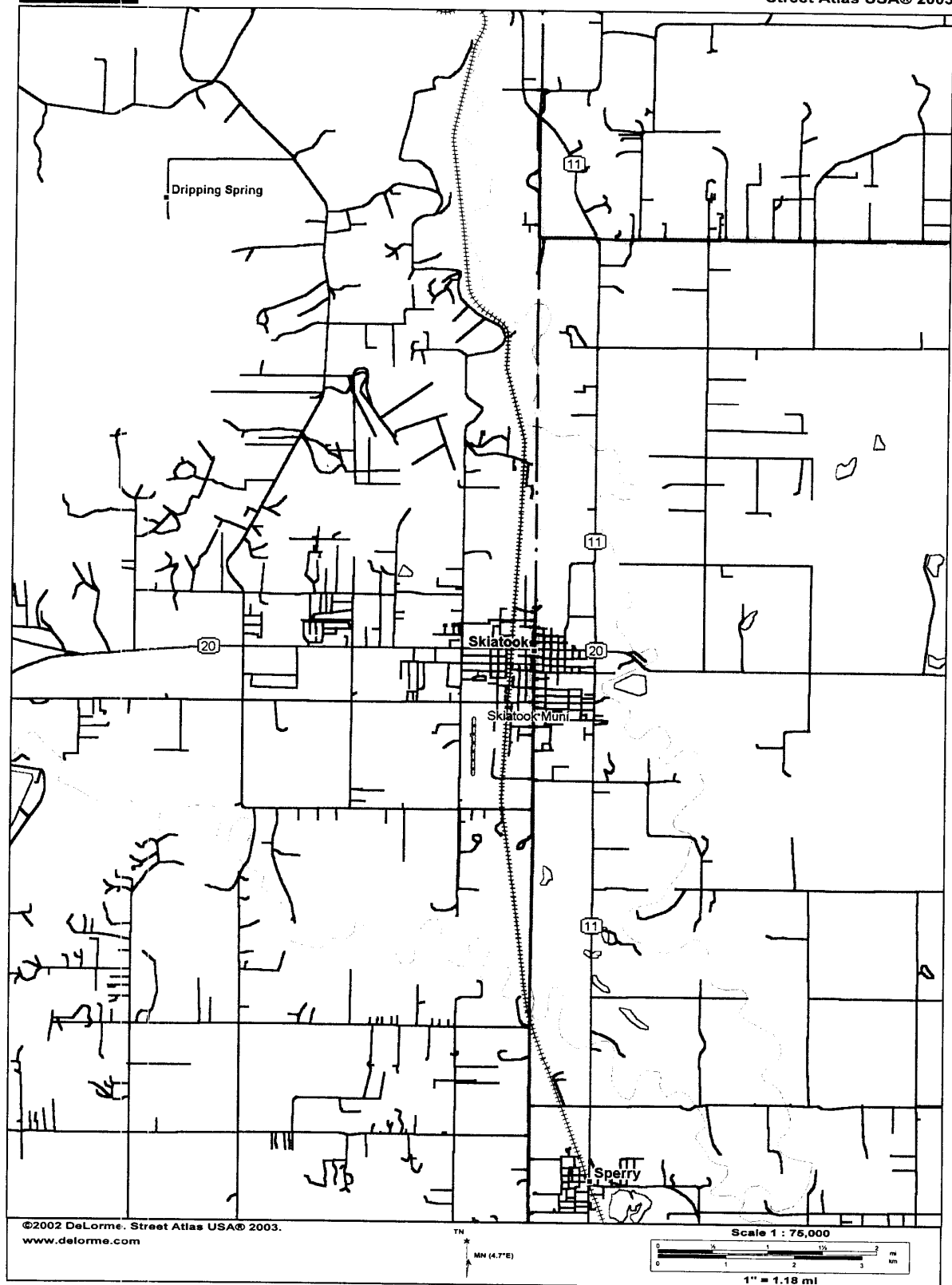
By:



Name: VIRGIL MAYABB

Title: Mayor





Osage Trail Mile Posts Within the Skiatook Fenceline

